

(S. B. 1352)
(Conference)

(No. 196-2011)

(Approved September 18, 2011)

AN ACT

To amend Section 2-119; amend subparagraphs (3), (7), and (8) of paragraph (a) of subsection (1); and amend subparagraph (3) and add a new subparagraph (4) to paragraph (b) of subsection (1) of Section 4-106; amend subsections (2) and (3) of Section 4-106; amend paragraphs (1), (2), and (3); renumber paragraphs (2) and (3) as (3) and (4), respectively, and add a new paragraph (2) to Section 4-110 of Act No. 447 of May 15, 1951, as amended, in order to increase, from twenty-five percent (25%) to sixty-five percent (65%), or twenty-five thousand dollars (\$25,000), whichever is less, the amount of the contribution that a participant may pledge as collateral for any loan requested under Section 2-119 of such Act; empower the Board to authorize the Administrator to sell or pledge personal or mortgage loans in the System's portfolio; grant personal or mortgage loan buyers the same tax benefits granted to the System; reduce, from fifty percent (50%) to twenty-five percent (25%), the total resources of the System that may be invested in personal or mortgage loans for participants and pensioners; set a statutory lien, with priority over any other debt, on the contributions, pension, or reimbursement of participants or pensioners to secure personal, mortgage, or cultural loans granted to them; establish the procedure to be followed for the application and garnishment of individual contributions of participants, or their savings account balance in the case of loans originated or acquired by Savings and Credit Unions and the Cooperative Bank of Puerto Rico; establish that loans granted by Savings and Credit Unions and the Cooperative Bank of Puerto Rico may be managed by a program to be developed by the Cooperative Bank of Puerto Rico; and for other purposes.

STATEMENT OF MOTIVES

A cooperative is an autonomous association of persons united voluntarily to meet their common economic, social, and cultural needs and aspirations through a jointly-owned and democratically-controlled enterprise. Cooperatives are based on the values of self-help, self-responsibility, democracy, equality, equity, and

solidarity. In the tradition of their founders, cooperative members believe in the ethical values of honesty, openness, social responsibility, and caring for others. Cooperatives are governed by seven internationally recognized essential principles as adopted by the International Cooperative Alliance. It is the public policy of the Government of Puerto Rico to facilitate and foster the growth and strengthening of Savings and Credit Unions and the Cooperative Bank of Puerto Rico, encourage their full and active participation in the financial service markets, and promote the dissemination of the cooperative philosophy and principles.

In order to further the public policy of the Government of Puerto Rico, Act No. 68 of June 13, 1977, amended Act No. 447 of May 15, 1951, as amended, to allow the retirees of the Employee Retirement System of the Government of the Commonwealth of Puerto Rico to pledge their pensions as collateral when applying for loans in Savings and Credit Unions. Thus, Savings and Credit Unions received assistance to address existing issues in their financial operations. Even so, the lending alternatives and standards available to participants of the Retirement System are limited to the options offered by such System and its fiscal situation. In order to render the options available to participants broader and more flexible, while ensuring the operational solvency of Savings and Credit Unions and the Cooperative Bank of Puerto Rico, it is necessary to increase the contribution percentage that a participant may voluntarily authorize to be encumbered to secure a personal loan with a Savings and Credit Union and the Cooperative Bank of Puerto Rico.

For such reason, integrating the Puerto Rican cooperative movement through the Savings and Credit Unions and the Cooperative Bank of Puerto Rico into the personal loan granting program of the Retirement System shall foster the general wellbeing of active participants and pensioners by broadening and improving the services to be offered by using a multiple service point infrastructure, access to

other products, quality financial services, advanced technology use, and the benefit of participating in the strategic alliances formed by the cooperative movement. To achieve this objective, Savings and Credit Unions and the Cooperative Bank of Puerto Rico must be provided with greater access to the contributions that can secure the loans they grant. This measure shall allow any participant of the Employee Retirement System of the Government of the Commonwealth of Puerto Rico to assign up to sixty-five percent (65%) of his/her contributions, or twenty-five thousand dollars (\$25,000) thereof, whichever is less, as collateral for a loan granted by a Savings and Credit Union or the Cooperative Bank of Puerto Rico. Thus, we incentivize Cooperatives to offer better terms to the participants of the System by reducing the risk of granting such loans.

This Legislative Assembly, in exercising its duty to promote any measure aimed at increasing benefits to Puerto Rico's public employees and pensioners, supports the adoption of this legislation.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF PUERTO RICO:

Section 1.— Section 2-119 of Act No. 447 of May 15, 1951, is hereby amended to read as follows:

“Section 2-119. — Benefits as Personal Rights; Exemptions.—

The right to retirement or disability annuities, death, and any other benefits pursuant to the provisions of this Act, regardless of their designation, as well as the receipt of reimbursements, is a personal right of the recipient thereof, and the transfer or assignment of said benefits and reimbursements, or any part thereof, shall be null, and may not be garnished or affected by any judicial proceeding, except as provided in this Act. None of said pensions, benefits, or reimbursements may be claimed for the payment of debts contracted by the recipients. Except for the loans made by participants of Savings and Credit Unions and the Cooperative Bank of Puerto Rico, which shall encumber up to twenty-five percent (25%) of the

pension or benefit, of the participant, as well as the provisions of Section 4-106 of this Act. However, the amounts credited to a member of the System through contributions made through wage or salary withholdings, including interest, and pursuant to the provisions of this Act or the provisions of any law regarding superseded pension funds, may be pledged by the participant as collateral for any loan requested by him/her from any fund, association, public enterprise, or any other lending agency created by an employer to offer loans to its employees, or by the Cooperative Bank of Puerto Rico or a Savings and Credit Union to offer loans to members and non-members. The participant may pledge up to sixty-five percent (65%) of his/her contributions or twenty-five thousand dollars (\$25,000) thereof, whichever is less, which is not pledged or designated by the participant as collateral on the Savings and Credit Union System, the Cooperative Bank of Puerto Rico, or any fund, association, public enterprise, or any other lending agency created by an employer to offer loans to its employees. Contributions that may be designated by the participant as collateral for any loan originated or acquired by these agencies, Savings and Credit Unions, and the Cooperative Bank of Puerto Rico may only be used as collateral for the principal and interests of such loans. Such amounts may be collected by the Administrator, the Savings and Credit Unions, or the Cooperative Bank of Puerto Rico, as provided in this Section and Section 4-110 of this Act, withheld by the Secretary of the Treasury, or garnished through the pertinent judicial proceeding to be applied to the repayment of any loan granted by any of these agencies or Savings and Credit Unions solely in the event that no pertinent arrangement has been made for the repayment of said loan to the satisfaction of said agency or Savings and Credit Union. The Cooperative Bank and the Savings and Credit Unions under the provisions of this Section participating in the loan granting and acquisition program covered under this Act shall require any participant who applies for a loan under the provisions of this

Section to own a life insurance policy that covers the cancellation of such debt, in case the debtor dies, and a disability insurance to defer payment in the event of a disability.”

Section 2.— Subparagraphs (3), (7), and (8) of paragraph (a) of subsection (1) are hereby amended and a new subparagraph (4) is hereby added to paragraph (b) of subsection (1) of Section 4-106 of Act No. 447 of May 15, 1951, as amended, to read as follows:

“Section 4-106.— System Fund Investment in Employee Loans.—

(1) The funds of the System may be invested in loans to permanent employees who are members of the System for the construction, expansion, or acquisition of their own homes, or the refinancing thereof, as well as in personal loans under the following terms and conditions:

(a) Mortgage Loans.- The System may grant mortgage loans subject to the following conditions:

...

(3) The loan shall be secured by a first mortgage on the real property for whose acquisition, extension, or refinancing the loan was made, for the contributions accrued and to be accrued on behalf of the borrower in the System, and in the amount that may correspond to the estate or the person the borrower would have designated as a beneficiary in case of death of the borrower, as provided in Sections 2-113 and 2-114, or Section 3-110 of this Act. Said contributions and amounts may be applied by the Administrator to the repayment of any of the participant’s debts with the System, subject to the priority established Section 4-110 of this Act.

...

(7) The Board may authorize the Administrator to sell or pledge the System's loan portfolio according to the terms and conditions that the Administrator deems appropriate and beneficial for the investment plan of the System. The buyer of such mortgage loans shall be entitled to the same tax benefits granted to the System under this Section.

(8) The interest accrued on the loans secured by these mortgages shall be exempt from all kinds of taxation.

...

(b) Personal Loans.- The System may grant personal loans subject to the following:

...

(3) The Board may authorize the Administrator to sell or pledge the System's loan portfolio according to the terms and conditions that the Administrator deems appropriate and beneficial for the investment plan of the System. The buyer of such mortgage loans shall be entitled to the same tax benefits granted to the System under this Section.

(4) The interest accrued on the loans secured by these mortgages shall be exempt from all kinds of taxation."

Section 3.— Subsections (2) and (3) of Section 4-106 of Act No. 447 of May 15, 1951, as amended, are hereby amended to read as follows:

"Section 4-106.— System Fund Investment in Employee Loans.—

(1) ...

(2) The total amount of the mortgage and personal loans authorized in paragraphs (a) and (b) of subsection (1) of this Section to be originated in the loan portfolio of the System may not exceed twenty-five percent (25%) of the total resources of the System.

(3) Every employer shall remit to the Administration all the amounts deducted monthly from its participating employees for the corresponding payment of their personal, cultural, or mortgage loans granted by the System within fifteen days following the end of the month to which the deductions apply. Every employer shall remit to the Cooperative Bank of Puerto Rico or the Savings and Credit Unions that shall not participate in the program to be developed by the Cooperative Bank, as provided in Section 4-110 of this Act, the amounts deducted monthly from its participating employees for the corresponding payment of the loans granted by the Savings and Credit Unions and the Cooperative Bank of Puerto Rico, as provided in Section 2-119 of this Act, within fifteen days following the end of the month to which the deductions apply.”

Section 4.— Paragraphs (1), (2), and (3) are hereby amended, paragraphs (2) and (3) are hereby renumbered as (3) and (4), respectively, and a new paragraph (2) is hereby added to Section 4-110 of Act No. 447 of May 15, 1951, as amended, to read as follows:

“Section 4-110.— Loan Collections and Administration; Credit Priority.—

The Administrator is hereby empowered to collect, from any amount a participant is entitled to receive as a final liquidation for accrued regular vacation or sick leave owed by the agency, entity, or department in which he/she worked, or from the savings liquidation that the Puerto Rico Government Employee Association must make, or from the contributions or interest accrued on the System, any amount owed for personal, cultural, or mortgage loans, or loans originated as provided in Section 2-119 of this Act, by said participant when he/she permanently ceases or separates from service. Debts owed to the System on account of personal, cultural, or mortgage loans, or loans originated or acquired by a Savings and Credit Union or the Cooperative Bank of Puerto Rico, as provided in Section 2-119 of this Act, shall have priority over any other debt of the participant.

The Administrator shall determine the manner and conditions under which such loan amounts and any interest accrued thereon, with respect to the loans of the System, shall be collected.

Personal loans originated or acquired by a Savings and Credit Unions of the Cooperative Bank of Puerto Rico up to the limit provided in Section 2-119 of this Act, and personal, mortgage, and cultural loans originated by the System shall be secured, with priority over any other debt, by the contributions made and those subsequently accrued in the System, the pension, benefit, or reimbursement exceeding the contributions designated by the participant or pensioner pursuant to Sections 2-119 and 4-106, and in the amount that, in case of death of the participant or pensioner, may correspond to his/her estate or any beneficiary as designated by him/her according to the provisions of Sections 4-105 to 4-108 of this Act. The statutory lien created in this Section 4-110 shall remain in full force and effect in the event that mortgage or personal loans are transferred by the Administrator to third parties pursuant to Section 4-106 of this Act. Such contributions and amounts may be applied by the Administrator to the repayment of any debt owed on account of any loan that the participant or pensioner may have with the System, Savings and Credit Unions or the Cooperative Bank of Puerto Rico upon their request. Pensioners shall pledge their pension annuities to secure their loans with the same priority that participants pledge their contributions, benefits, or reimbursements. The priority among the debts owed by participants or pensioners to the System, Savings and Credit Unions, and the Cooperative Bank of Puerto Rico shall be determined based on the date on which such loans were granted.

If the personal, cultural, and mortgage loans granted by the System, and loans granted pursuant to the provisions of Section 2-119 of this Act, are in arrears, the Administrator (in the case of loans originated by the System), Savings and

Credit Unions, and the Cooperative Bank of Puerto Rico (in the case of loans originated by these entities) shall grant the borrower, whether he/she is a participant or a pensioner, a term of 30 days through a written notice sent by certified mail, warning him/her that if he/she fails to pay or make the necessary arrangements with the System (in the case of loans originated by the System), Savings and Credit Unions, or the Cooperative Bank of Puerto Rico (in the case of loans originated by these entities), such debt shall become due in its entirety, and the individual contributions of the participants, or the balance in their savings account shall be garnished and, whichever may be the case, applied to the debt. In the case of loans originated by Savings and Credit Unions and the Cooperative Bank of Puerto Rico, the application, garnishment, and payment to the Cooperative Bank of Puerto Rico or the Savings and Credit Unions shall be carried out by the Administrator within 60 days as of the request of the Cooperative Bank of Puerto Rico or Savings and Credit Unions, such request shall include a certification of the Saving and Credit Union or the Cooperative Bank of Puerto Rico stating that 30 days have elapsed since the date on which the borrower, whether a participant or pensioner, was notified that the full payment of the amounts due has not been received.

In the collection notice, the Administrator (in the case of loans originated by the System), Savings and Credit Unions, and the Cooperative Bank of Puerto Rico (in the case of loans originated by these entities) shall advice the participant of the consequences of the application of his/her individual contributions in relation to the benefits granted by the System. He/she shall also inform the participant of his/her right to return such contributions, with the corresponding interest, to restore the credits in years of service that such contributions represent, subject to the rules or restrictions established by the Administrator.

Loans granted by Savings and Credit Unions and the Cooperative Bank of Puerto Rico may be administered by a program to be developed by the Cooperative Bank of Puerto Rico. As the Administrator of such program, the Cooperative Bank of Puerto Rico may act as the administrative agent of the Savings and Credit Unions participating in such program, before the System and the employers, and shall be empowered to carry out payment transactions and collections with the System and the employers for loans granted by the Savings and Credit Unions and the Cooperative Bank of Puerto Rico. The Cooperative Bank of Puerto Rico shall also coordinate with the Savings and Credit Unions participating in the program to be established, the acquisition by the participants of the insurance policies required under Section 2-119. However, the Cooperative Bank of Puerto Rico and the Savings and Credit Unions that shall not participate in the program to be developed by the Cooperative Bank shall render a quarterly report including all the information requested by the Administration through a policy letter regarding the loans granted by Savings and Credit Cooperatives and the Cooperative Bank of Puerto Rico, including payment and default status thereof.”

Section 5.— Effectiveness.—

This Act shall take effect immediately after its approval.

CERTIFICATION

I hereby certify to the Secretary of State that the following **Act No. 196-2011 (S. B. 1352)** **(Conference)** of the 6th Session of the 16th Legislature of Puerto Rico:

AN ACT to amend Section 2-119; amend subparagraphs (3), (7), and (8) of paragraph (a) of subsection (1); and amend subparagraph (3) and add a new subparagraph (4) to paragraph (b) of subsection (1) of Section 4-106; amend subsections (2) and (3) of Section 4-106; amend paragraphs (1), (2), and (3); renumber paragraphs (2) and (3) as (3) and (4), respectively, and add a new paragraph (2) to Section 4-110 of Act No. 447 of May 15, 1951, as amended, in order to increase, from twenty-five percent (25%) to sixty-five percent (65%), or twenty-five thousand dollars (\$25,000), whichever is less, the amount of the contribution that a participant may pledge as collateral for any loan requested under Section 2-119 of such Act; etc.

has been translated from Spanish to English and that the English version is correct.

In San Juan, Puerto Rico, on the 15th day of March, 2013.

Juan Luis Martínez Martínez
Director Interino

